

ENTERED

September 17, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISIONJOSHUA BROWN
Plaintiff,

v.

EQUIFAX, INC.,
Defendant.§
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CIVIL ACTION No. 4:24-CV-01742

MEMORANDUM AND RECOMMENDATION

Before the Court is Defendant Equifax, Inc.'s Motion to Dismiss. ECF 13.¹ For the reasons below, the Court RECOMMENDS that Defendant's Motion to Dismiss (ECF 13) be GRANTED and the action be DISMISSED WITHOUT PREJUDICE.

I. Factual and Procedural Background.

On March 14, 2024, Plaintiff Joshua Brown, proceeding *pro se*, filed suit under the Fair Credit Reporting Act in the Harris County 11th District Court. ECF 1-1. Defendant properly removed the case to this Court on May 9, 2024. ECF 1. Defendant then filed a Motion to Dismiss under Rule 12(b)(6) on May 16, 2024. ECF 3. The Court held an Initial Conference on July 16, 2024, where Plaintiff and counsel for the Defendant appeared. ECF 12. Subsequently, the Court ordered

¹ The District Judge referred this case to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(A) and (B), the Cost and Delay Reduction Plan under the Civil Justice Reform Act, and Federal Rule of Civil Procedure 72. ECF 4.

Plaintiff to file an Amended Complaint that named the correct party as identified in Defendant's Motion to Dismiss (ECF 3), on or before July 30, 2024. *Id.* The Court then denied Defendant's Motion to Dismiss (ECF 3) without prejudice. *Id.*

To date, Plaintiff has not filed an Amended Complaint and thus has not complied with the Court's Order (ECF 12). On September 11, 2024, Defendant renewed its Motion to Dismiss, with prejudice, citing Plaintiff's failure to comply with the Court's Order. ECF 13.

II. Legal Standards.

If the plaintiff fails to prosecute or to comply with a court order, a defendant may move to dismiss the action or any claim against it. Fed. R. Civ. P. 41(b). Unless the dismissal order states otherwise, a dismissal under subdivision (b) operates as an adjudication on the merits. *Id.*

III. Analysis.

A. Plaintiff failed to comply with the Court's Order.

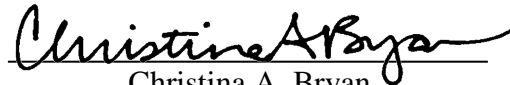
The Court ordered Plaintiff to file an Amended Complaint that named the correct party as identified in Defendant's Motion to Dismiss. ECF 12. The deadline to comply with the Court's order was July 30, 2024. *Id.* To date, Plaintiff has not complied with the Court's order, and has otherwise failed to prosecute his case. Pursuant to Rule 41(b), and Defendant's Motion to Dismiss (ECF 12), dismissal is proper.

IV. Conclusion and Recommendation.

For the reasons stated above, the Court RECOMMENDS that Defendant Equifax, Inc.'s Motion to Dismiss (ECF 13) be GRANTED and the action be DISMISSED WITHOUT PREJUDICE.

The Clerk of the Court shall send copies of the memorandum and recommendation to the respective parties, who will then have fourteen days to file written objections, pursuant to 28 U.S.C. § 636(b)(1)(C). Failure to file written objections within the time period provided will bar an aggrieved party from attacking the factual findings and legal conclusions on appeal. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc), superseded by statute on other grounds.

Signed on September 17, 2024, at Houston, Texas.


Christina A. Bryan
United States Magistrate Judge